

## **REMARKS**

### **Pending Claims**

Claims 1-13 have been amended, and new claims 14 and 15 have been added, so claims 1-15 are currently pending in the above-identified application.

### **Interview**

Applicants appreciate the granting of an Office Interview on December 28, 2005 by the Examiner, attended by the undersigned attorney. In the Interview, Applicants agreed to submit amendments to the specification to correspond to the Replacement sheet of the Drawings submitted with the Amendment of June 28, 2005. The specification mentions the probe washing mechanism 60 shown in block diagram form in Fig. 4. Accordingly, Applicants request entry of the Replacement Sheet of the drawing containing Fig. 4, which the Office Action indicates has not yet been entered. Applicants further agreed to amend the claims to address the points raised by the Examiner in the rejection under 35 U.S.C. § 112, second paragraph. Applicants respond to the rejections set forth in the Office Action as follows.

### **35 U.S.C. § 112**

Claims 1-13 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regards as the invention. In response, Applicants have amended the claims to overcome the rejection. In particular, the claims have been amended to set forth the elements of the analyzer so that it is clear where the elements of the device begin. The elements are supported by the description in the specification on page 10, lines 3-13. Further, the claims, as amended, specify that variation in the state of the washing means, which is for washing at least the reagent pipetting probe, is determined in order to prevent the occurrence of errors of determination due to generation of new contamination.

The amended claims clarify that the judgment on the presence or absence of the cross-contamination is performed for combinations of the reagents. See page 14, line 18- page 15, line 13 of the specification, for example. When there is a judgment of cross contamination

among reagents for a specific reagent combination, the result is compared to the previously judged results for the same reagent combination and if they differ, the alarm or warning is generated indicating that the state of the washing means has changed. See steps S3-1 through S3-3 of Fig. 3; steps S7-1 through S7-3 of Fig. 8; and the corresponding description on page 16, line 20 – page 17, line 9 of the specification and on page 22, line 24 through page 23, line 13 of the specification, respectively. The judgment of contamination can be made in parallel with the ordinary analysis of samples. The contamination judgment is made by using the analyzer during its regular use of analyzing samples by loading a test sample. See page 17, lines 18-23 of the specification and also page 22, lines 11-16 thereof. As set forth on page 18, lines 6-10 of the specification and page 22, lines 16-23 thereof, the judgment of contamination can be determined by a user who only knows basic knowledge of the operation of the analyzer, as a result.

Finally, Applicants have amended the dependent claims to ensure proper antecedent support for the claimed elements. Accordingly, claims 1-13, as amended, comply with 35 U.S.C. § 112, second paragraph and it is respectfully requested that the rejection be withdrawn.

**35 U.S.C. §103(a)**

Claims 1-13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the admitted state of the art or Sakagami (U.S. Patent No. 4,785,407) in view of Kopf-Sill (U.S. Patent No. 5,590,052) or Ginsberg (U.S. Patent No. 4,276,051). Reconsideration of the rejection is requested in view of the foregoing amendments and for the following reasons.

As amended, each of the independent claims provides that the analyzer judges the presence or absence of cross-contamination among the reagents in order to prevent the occurrence of errors of determination due to cross-contamination occurring among the reagents and the occurrence of errors of determination due to generation of new contamination by variation of the state of the washing means. The analyzer makes judgment on the presence or absence of the-cross-contamination for combinations of the reagents and compares the result with those of previously made judgments for the same reagent combinations. When the comparison produces results that differ by more than a

predetermined amount, the user is notified. Without such notification, the user may not be able to determine that such new contamination exists. As discussed by Applicants, automatic analyzers of the prior art do not permit a user to determine cross-contamination errors and whether new contamination is causing errors due to variation of the state of the washing means, as in the present invention.

For example, Ginsberg, which is relied upon in the rejection for disclosing this feature, uses a blanking solution that is injected through a probe into a cuvette and a measurement is taken with a photometer to determine if the cuvette has been washed. That is, the measured value of absorbance after washing is compared with that of the absorbance measured before the last test. This procedure is merely concerned with determining whether the cuvette has been sufficiently washed, however, and not whether variation of the state of the washing means has occurred, as in the present invention.

Applicants' arguments concerning the rejection of claims 1-13 by Sakagami in view of Kopf-Sill or Ginsberg, are of record in Applicants responses filed November 10, 2004 and June 28, 2005. Accordingly, Applicants believe the record of the application is well developed and further assertions of patentability beyond those mentioned above, which are directly responsive to the new issues raised in the outstanding Office Action, are unnecessary. Therefore, Applicants request reconsideration of the rejections based on the arguments of record and the new arguments presented herein.

#### **New Claims**

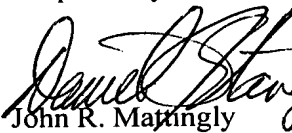
Applicants have added new claims 14 and 15 to further claim the subject matter which Applicants regard as the invention. New claim 14 sets forth elements of the analyzer that are shown in Fig. 4 and described in the specification on page 10, lines 3-13, for example. Further, claim 14 sets forth that the analyzer makes judgment on the presence or absence of the cross-contamination for combinations of the reagents used in succession. Support for this limitation is provided by page 14, line 18- page 15, line 13 of the specification, for example. Claim 15 is patterned after claims 6 and 11, for example, and therefore finds support in the original claims of the application. Claims 14 and 15 are asserted to be allowable for the same

reasons given for the allowability of claims 1-13. Accordingly, allowance of claims 14-15 with claims 1-13 is respectfully requested.

**Conclusion**

In view of the foregoing amendments and remarks, Applicants contend that the above-identified application is now in condition for allowance. Accordingly, reconsideration and reexamination is requested.

Respectfully submitted,

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